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**E-filed 12/2/13**

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

IN RE: CASE NO. BK-N-09-52177-GWZ (Lead)  
CASE NO. BK-N-09-52178-GWZ  
WES CONSTRUCTION COMPANY, INC., a Nevada corporation, CASE NO. BK-N-09-52181-GWZ  
(Jointly Administered)

HEAVY EQUIPMENT SERVICES, LLC, a Nevada limited liability company, CHAPTER 7

TRUCKING SERVICES, LLC, a Nevada limited liability company, **TRUSTEE'S OBJECTION TO CLAIM OF ACTIVE ASSET MANAGEMENT (CLAIM 72-1)**

Debtors.

**Hearing Date: 2/11/14**  
**Hearing Time: 2:00 p.m.**

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Keith J. Tierney, chapter 7 trustee for WES Construction Company, Inc., Heavy Equipment Services, LLC and Trucking Services, LLC ("Trustee") objects to Claim 72-1 filed on October 5, 2009 by Active Asset Management ("Active"). This objection is made in accordance with 11 U.S.C. § 502, F.R.Bankr.P. 3007, 9014 and LR 3007. As required by LR 3007(a)(4), a copy of the first page of Claim 72-1 is attached to this Objection as **Exhibit A**.

Claim 72-1 is based upon two separate lease agreements, WESCO "A" and WESCO "B". The Trustee objects to that portion of Claim 72-1 for payments claimed due for the unexpired portion of the leases, i.e., \$244,468.53 for WESCO "A" and \$104,344.20 for WESCO "B". Trustee asserts that Active had an affirmative duty to mitigate its damages

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1 and there is no evidence that it did so. On that basis, the Trustee objects to \$348,812.73 of  
2 Claim 72-1.

3 DATED: December 2, 2013.

4 **HARTMAN & HARTMAN**

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6 /S/ Jeffrey L. Hartman  
7 Jeffrey L. Hartman, Esq.  
8 Attorney for Keith Tierney, Trustee  
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